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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,082	02/15/2002	Kenneth Jacobs	P 284907	8644

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EXAMINER

D ADAMO, STEPHEN D

ART UNIT PAPER NUMBER

3636

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/076,082

Applicant(s)

JACOBS ET AL.

Examiner

Stephen D'Adamo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) 9,10,30 and 31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8,11-29 and 32-46 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/2/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings were received on 12 August 2004. These drawings are accepted.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 45 and 46 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains new subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, claims 45 and 46 recite a movable part and a fixed part which sandwich a portion of the storage component therebetween. The office was unable to find information in the specification that supports the recitation of a fixed part extending from the engaging assembly and a movable part connected to the engaging assembly.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 1-46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 and 19, both claims positively recite "a middle portion" more than once. It is confusing and unclear whether a second middle portion or the same middle

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portion is being claimed. It is suggested to change the terminology to more clearly define the claimed subject matter.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

As understood, Claims 1-6, 14-27 and 45-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Tassell (3,250,584).

Tassell discloses a support structure assembly of a storage system including demountable wall panel, shelf and desk structure. The support structure comprises at least one elongated vertical support 1, 2, 3 having a length, a bottom portion 4 and a top portion 6. Wherein each of the elongated vertical supports further includes a front portion, a rear portion and a middle portion interconnecting the front and rear portions. Figure 3 discloses a cross sectional view of the elongated vertical supports depicting the front, rear, and middle portions. Note, the front and rear portions cooperate to form a channel on both sides of the middle portion. Furthermore, the channel includes an interior portion, an outwardly beveled exterior portion and a middle portion. The middle portion interconnects the interior and exterior portions and has a reduced width, compared to the interior and exterior portions (See figure below). Moreover, the support structure also comprises at least one adjustable bracket 9 connected to the respective vertical support, each adjustable door mounting bracket having a fastener engaging assembly 36 which has

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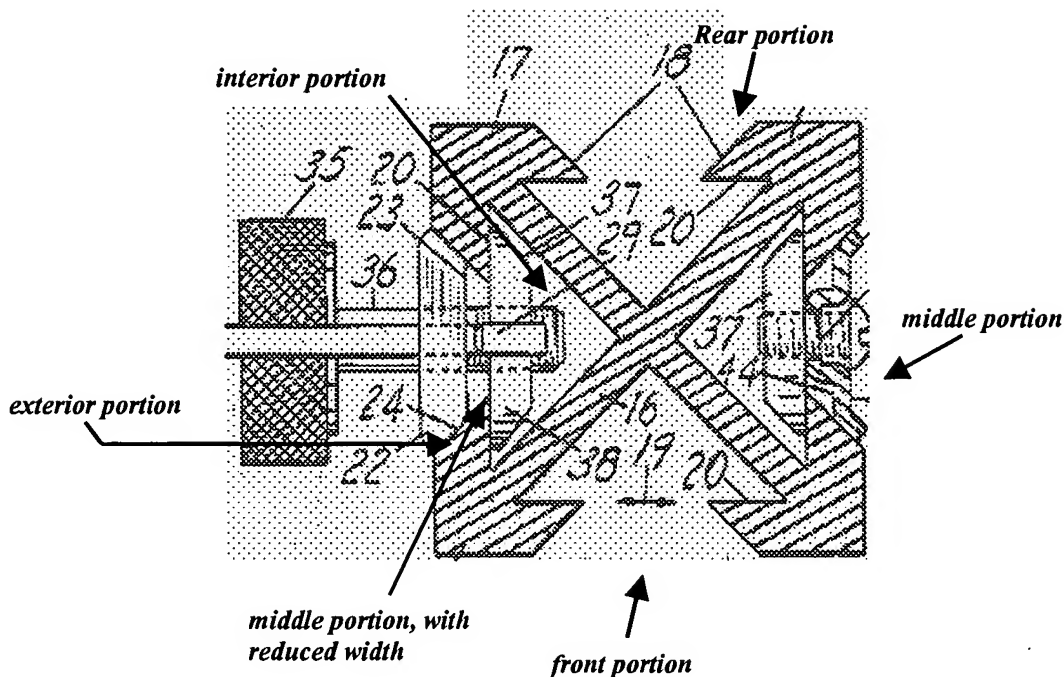
a removable support assembly connected to the engaging assembly. The engaging assembly and the locking assembly, positioned within the interior portion of the channel, have an unlocked position and a locked position to prevent movement of the adjustable bracket. The adjustable brackets further include a shelf storage component for storing articles thereon.

Regarding claims 15, 18 and 23, it should be noted that the elongated vertical support and the brackets are cast in a continuous extrusion process (col.2, lines 26-28 and 45-48).

With respect to the material of rolled steel and reinforced plastic which manufacture the elongated vertical support therefrom, it is considered a matter of engineering design choice to utilize a well known per se and commercial available material of rolled steel or reinforced plastic to produce the elongated vertical support therefrom because it is well within the levels of skill in the art to utilize the known material to produce the elongated vertical support according to its suitability of intended use without structurally altering the elongated vertical support. Furthermore, Tassell discloses spaced ribs dividing each channel into first and second portions to retain the engaging assembly and locking assembly. Note, the spaced ribs are located at the middle portion of the channel.

Regarding claims 45-46, Tassell discloses a fixed part 29 extending from the engaging assembly and a movable part 35 and 36 slidably connected to the engaging assembly.

The two parts are arranged so that at least a portion of the storage component 21 is sandwiched therebetween.



Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tassell (3,250,584) in view of Fenwick (3,305,286).

Tassell discloses a support structure assembly of a storage system including demountable wall panel, shelf and desk structure. The support structure comprises at least one elongated vertical support 1, 2, 3 having a length, a bottom portion 4 and a top portion 6. Wherein each of the elongated vertical supports further includes a front portion, a rear

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portion and a middle portion interconnecting the front and rear portions. Yet, Tassell fails to expressly disclose an adjustable lower mounting member assembly having a lower connection assembly that connects to a lower end of an elongated support and connected to a floor connection assembly. Yet, Fenwick discloses a piece of furniture with an adjustable lower mounting member assembly 106 comprising a floor connection assembly 109 engaging a floor mounting member 115 and a lower connection assembly 107 and the lower connection assembly is adapted to engage with the elongated vertical support 32. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify bottom portion of the support structure of Tassell with a lower mounting member assembly, as taught by Fenwick, in order to level the elongated vertical support and the support structure assembly with respect to an uneven floor.

Claims 8, 11-13, 29, and 32-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tassell (3,250,584) in view of Fenwick (3,305,286) and in further view of Doran (2,729,314) and Peterson et al. (4,161,850).

Tassell discloses a support structure assembly of a storage system including demountable wall panel, shelf and desk structure. The support structure comprises at least one elongated vertical support 1, 2, 3 having a length, a bottom portion 4 and a top portion 6. Wherein each of the elongated vertical supports further includes a front portion, a rear portion and a middle portion interconnecting the front and rear portions. Fenwick discloses an adjustable lower mounting member assembly 106 comprising a floor connection assembly 109 engaging a floor mounting member 115 and a lower connection

assembly 107 and the lower connection assembly is adapted to engage with the elongated vertical support 32. Yet, neither Tassell nor Fenwick expressly disclose a door or panel receiving upper horizontal support connected to a top portion of the elongated vertical support. However, Doran teaches of a shelf bracket including a door or panel receiving upper horizontal support 23 supporting a panel 1 therein between and a fixing block 26 having portions 28 connecting to a first track 24 on a first end portion of the horizontal support. A complementary structure 37 and 40 connects the fixing block and the horizontal support 23 to a top portion of the elongated vertical support, and a second track is sized to receive an end portion of a horizontal panel 1. See Figure 2. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the supporting structure assembly of Tassell with a door panel receiving upper horizontal support and a fixing block, as taught by Doran, in order to have a door panel receiving upper horizontal support that enables to retain a panel therein between and run electrical wires therethrough. Peterson teaches a wall-mounting bracket 42 and 46 mounted to a fixing block 50 that is secured to a horizontal support 26. See Figures 1, 2, 7 and 8. At the time the invention was made, it would have been obvious to one having ordinary skill in the art to substitute the complement structure of Doran with the provision of a wall mounting bracket, as taught by Peterson, in order to connect to a permanent wall so that to prevent the support structure from falling over because it is well within the level of skill in the art to utilize the known features of the art for the purpose for which they are known.

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Claims 43 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tassell (3,250,584) in view of Fenwick (3,305,286), Doran (2,729,314), Peterson et al. (4,161,850) and in further view of Patterson (3,151,576).

Tassell discloses a support structure assembly of a storage system including demountable wall panel, shelf and desk structure. The support structure comprises at least one elongated vertical support 1, 2, 3 having a length, a bottom portion 4 and a top portion 6. Wherein each of the elongated vertical supports further includes a front portion, a rear portion and a middle portion interconnecting the front and rear portions. Fenwick discloses an adjustable lower mounting member assembly 106 comprising a floor connection assembly 109 engaging a floor mounting member 115 and a lower connection assembly 107 and the lower connection assembly is adapted to engage with the elongated vertical support 32. Doran teaches of a door panel receiving upper horizontal support and a fixing block. Peterson teaches of a wall mounting bracket. However, none disclose show racks for Tassell's support structure. Yet, Patterson discloses a display stand with similar elongated vertical supports and channels. Paterson teaches of storage components, which one skilled in the art could recognize as shoe racks. The supports of Paterson are pivotable and can therefore be tilted to a forwardly and downwardly angle or an upwardly and rearwardly angle, depending on which side of Tassell's elongated vertical support the support structure is mounted. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Tassell, Fenwick, Doran and Peterson with tilted shoe racks, as taught by Patterson, for displaying multiple shoes.

Response to Arguments

6. Applicant's arguments with respect to claims 1-42 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Both Lindberg et al. (5,154,385) and Tassell (3,178,775 & 3,143,981) show various features of the claimed invention.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen D'Adamo whose telephone number is 703-305-8173. The examiner can normally be reached on Monday-Thursday 6:00-3:30, 2nd Friday 6:00-2:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo can be reached on 703-308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SD

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November 10, 2004


Peter M. Cuomo
Supervisory Patent Examiner
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